

HOUSE BILL No. 1768

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-2.1-24-18; IC 9-24-6-2.

Synopsis: Diabetic holders of commercial driver's licenses. Provides that certain federal regulations pertaining to an insulin dependent diabetic intrastate driver do not apply if the driver is employed by a private carrier or by a carrier of property operated only in intrastate commerce while employed in construction or construction related service. Specifies that the driver must meet fitness requirements for holding a commercial driver's license adopted by rule by the bureau of motor vehicles.

Effective: July 1, 2003.

Richardson

January 21, 2003, read first time and referred to Committee on Roads and Transportation.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1768

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-2.1-24-18, AS AMENDED BY P.L.92-2000,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 18. (a) 49 CFR Parts 382, 385 through 387, 390
4 through 393, and 395 through 398 is incorporated into Indiana law by
5 reference, and, except as provided in subsections (d), (e), (f), and (g),
6 must be complied with by an interstate and intrastate motor carrier of
7 persons or property throughout Indiana. Intrastate motor carriers
8 subject to compliance reviews under 49 CFR 385 shall be selected
9 according to criteria determined by the superintendent which must
10 include but is not limited to factors such as previous history of
11 violations found in roadside compliance checks and other recorded
12 violations. However, the provisions of 49 CFR 395 that regulate the
13 hours of service of drivers, including requirements for the maintenance
14 of logs, do not apply to a driver of a truck that is registered by the
15 bureau of motor vehicles and used as a farm truck under IC 9-18, or a
16 vehicle operated in intrastate construction or construction related
17 service, or the restoration of public utility services interrupted by an



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emergency. Except as provided in subsection (i), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (i), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, is incorporated into Indiana law by reference, and every:

- (1) private carrier;
- (2) common carrier;
- (3) contract carrier;
- (4) motor carrier of property, intrastate;
- (5) hazardous material shipper; and
- (6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

- (1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.
- (2) The shipment of goods is limited to intrastate commerce.
- (3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

- (1) a state police officer or state police motor carrier inspector who:
 - (A) has successfully completed a course of instruction approved by the Federal Highway Administration; and
 - (B) maintains an acceptable competency level as established by the state police department; or

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(2) an employee of a law enforcement agency who:

(A) before January 1, 1991, has successfully completed a course of instruction approved by the Federal Highway Administration; and

(B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) Subpart 391.41 as it applies to physical qualifications of drivers hired before September 1, 1985.

(2) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver ~~who has held a commercial driver's license (as defined in IC 9-13-2-29) before April 1, 1992~~, diagnosed as an insulin dependent diabetic, if the driver has filed an annual statement with the bureau of motor vehicles completed and signed by a certified endocrinologist attesting that the driver:

(A) is otherwise physically qualified under Subpart 391.41 to operate a motor vehicle and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's knowledge, has carried a source of rapidly absorbable glucose at all times

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1 while driving a motor vehicle, has self monitored blood
2 glucose levels one (1) hour before driving and at least once
3 every four (4) hours while driving or on duty before driving
4 using a portable glucose monitoring device equipped with a
5 computerized memory; and

6 (E) has submitted the blood glucose logs from the monitoring
7 device to the endocrinologist at the time of the annual medical
8 examination.

9 A copy of the blood glucose logs shall be filed along with the
10 annual statement from the endocrinologist with the bureau of
11 motor vehicles for review by the driver licensing advisory
12 committee established under IC 9-14-4. **The driver must meet**
13 **fitness requirements adopted by rule under IC 9-24-6-2.** A
14 copy of the annual statement shall also be provided to the driver's
15 employer for retention in the driver's qualification file, and a copy
16 shall be retained and held by the driver while driving for
17 presentation to an authorized federal, state, or local law
18 enforcement official.

19 (3) Subpart 396.9 as it applies to inspection of vehicles carrying
20 or loaded with a perishable product. However, this exemption
21 does not prohibit a law enforcement officer from stopping these
22 vehicles for an obvious violation that poses an imminent threat of
23 an accident or incident. The exemption is not intended to include
24 refrigerated vehicles loaded with perishables when the
25 refrigeration unit is working.

26 (4) Subpart 396.11 as it applies to driver vehicle inspection
27 reports.

28 (5) Subpart 396.13 as it applies to driver inspection.

29 (h) For purposes of 49 CFR 395.1(l), "planting and harvesting
30 season" refers to the period between January 1 and December 31 of
31 each year. The intrastate commerce exception set forth in 49 CFR
32 395.1(l), as it applies to the transportation of agricultural commodities
33 and farm supplies, is restricted to single vehicles and cargo tank motor
34 vehicles with a capacity of not more than five thousand four hundred
35 (5,400) gallons.

36 (i) The requirements of 49 CFR 390.21 do not apply to an intrastate
37 carrier or a guest operator not engaged in interstate commerce and
38 operating a motor vehicle as a farm vehicle in connection with
39 agricultural pursuits usual and normal to the user's farming operation
40 or for personal purposes unless the vehicle is operated either part time
41 or incidentally in the conduct of a commercial enterprise.

42 (j) The superintendent of state police may adopt rules under

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1 IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by
2 reference under this section.

3 SECTION 2. IC 9-24-6-2, AS AMENDED BY P.L.123-2002,
4 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2003]: Sec. 2. (a) The bureau shall adopt rules under
6 IC 4-22-2 to regulate persons required to hold a commercial driver's
7 license.

8 (b) The rules must carry out 49 U.S.C. 521, 49 U.S.C. 31104, 49
9 U.S.C. 31301 through 31306, 49 U.S.C. 31308 through 31317, and 49
10 CFR 383.

11 (c) Rules adopted under this section must include the following:

12 (1) Establishment of classes and periods of validation of
13 commercial driver's licenses, **including a category for the**
14 **holder of a commercial driver's license issued under**
15 **IC 8-2.1-24-18(g).**

16 (2) Standards for commercial driver's licenses, including
17 suspension and revocation procedures.

18 (3) Requirements for documentation of eligibility for legal
19 employment, as set forth in 8 CFR 274a.2, and proof of residence
20 in Indiana.

21 (4) Development of written or oral tests, driving tests, and fitness
22 requirements.

23 (5) Defining the commercial driver's licenses by classification and
24 the information to be contained on the licenses, including the
25 Social Security number and a unique identifier of the holder.

26 (6) Establishing fees for the issuance of commercial driver's
27 licenses, including fees for testing and examination.

28 (7) Procedures for the notification by the holder of a commercial
29 driver's license to the bureau and the driver's employer of
30 pointable traffic offense convictions.

31 (8) Conditions for reciprocity with other states, including
32 requirements for a written commercial driver's license test and
33 operational skills test, and a hazardous materials endorsement
34 written test and operational skills test, before a license may be
35 issued.

36 (9) Other rules necessary to administer this chapter.

37 (d) 49 CFR 383 is adopted as Indiana law.

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